

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON FEDERAL RELATIONS, ENERGY, AND TELECOMMUNICATIONS**

**Call to Order:** By **CHAIRMAN ROD BITNEY**, on February 12, 2003 at 3:00 P.M., in Room 455 Capitol.

#### **ROLL CALL**

##### **Members Present:**

Rep. Rod Bitney, Chairman (R)  
Rep. Gary Matthews, Vice Chairman (D)  
Rep. Dee Brown (R)  
Rep. Eileen J. Carney (D)  
Rep. Tim Dowell (D)  
Rep. Daniel Fuchs (R)  
Rep. Hal Jacobson (D)  
Rep. Jeff Laszloffy (R)  
Rep. Scott Mendenhall (R)  
Rep. John Parker (D)  
Rep. Diane Rice (R)  
Rep. Brennan Ryan (D)  
Rep. Jim Shockley (R)

**Members Excused:** Rep. Alan Olson, Vice Chairman (R)

**Members Absent:** None.

**Staff Present:** Glenna McClure, Committee Secretary  
Mary Vandenbosch, Legislative Branch

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

##### **Committee Business Summary:**

Hearing & Date Posted: HB 479, 2/10/2003; HB 498,  
2/10/2003  
Executive Action: HB 443

**HEARING ON HB 479**

***{Tape: 1; Side: A; Approx. Time Counter: 1.7 - 7.4}***

**Sponsor: REPRESENTATIVE KIM GILLAN, HD 11**

**Opening Statement by Sponsor:**

**REP. GILLAN** said that HB 479 is an important consumer protection proposal. There has been legislation in past years to protect consumers against telephone "slamming" and "cramming." The incidence of slamming has gone down some, but cramming has been rising dramatically. The reason for HB 479 provides the Public Service Commission the authority to enforce consumer protection. Cramming is when consumers get unauthorized charges on their telephone bills. It is hard for the consumer to recognize who the charges are from and how to remove the charges from their bill. The hope is that this bill will eliminate slamming and cramming. She explained each section of the bill. She provided amendments to the bill.

**EXHIBIT(feh31a01)**

**Proponents' Testimony:**

***{Tape: 1; Side: A; Approx. Time Counter: 7.4 - 26.6}***

**Matt Brainard, Public Service Commission (PSC), District 4**, said that he was testifying in support of this bill. He distributed a written copy of his overview of HB 479 and a flow chart illustrating billing and problem resolution. He shared a personal experience with phony charges on his telephone bill.

**EXHIBIT(feh31a02)**

**EXHIBIT(feh31a03)**

**Kate Whitney, Public Service Commission**, gave some background on how the PSC handles slamming or cramming complaints. She said that the complaints that are received by the PSC are a small portion of the actual incidences of slamming and cramming. She referred to the packet distributed by Matt Brainard. There is an example of a phone bill from an individual who was crammed by a directory services company.

**Monica Tranel, Staff Attorney, Public Service Commission**, said that they have three recent examples of complaints. One slamming incident resulted in fines in excess of \$10,000 which remains outstanding. The PSC is unable to enforce or collect fines under

the statute as it is currently written. She said that the PSC knows of an instance in Montana where a particular company billed \$2.12 to 60,000 customers. In reference to Exhibit 3, she said that the service provider submits a bill to the aggregator, such as Integretel, who then submits it to the customer's local exchange company, such as Qwest, who then submits the bill to the customer. It is an extremely lucrative business. This bill would help the PSC to protect customers who are being billed fraudulently.

**Greg Jergeson, Public Service Commission**, said that he is in support of this bill.

**Mike Strand, CEO, Montana Independent Telecommunication Systems**, said that they absolutely support the underlying principles of this bill.

**Rick Hays, Qwest**, said that this has been a cooperative effort putting this legislation together. He said that they feel this bill will protect the customers and the companies who are providing legitimate services.

**Goeff Feiss, General Manager, Montana Telecommunications Association**, said that they don't like the companies who bill fraudulently either. He is in support of this bill.

**Margaret Crennen, AARP**, distributed testimony of Sam Sperry who was unable to attend and a copy of a newspaper article regarding slamming and cramming.

**EXHIBIT (feh31a04)**

Opponents' Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

*{Tape: 1; Side: A; Approx. Time Counter: 26.6 - 27}*

**REP. GILLAN** said that she would be available for questions on the amendments. She said that she appreciated the telephone company representatives taking the time to testify in favor of this bill. She thanked the committee and urged a do pass recommendation.

**HEARING ON HB 498**

***{Tape: 1; Side: B; Approx. Time Counter: 1 - 5.7}***

**Sponsor: REPRESENTATIVE DAVE WANZENRIED, HD 68**

**Opening Statement by Sponsor:**

**REP. WANZENRIED** said that HB 498 removes about 20 words from the code. This bill removes the termination date for Universal System Benefits(USB). There is a large segment of our population that are living well under the poverty level. The needs of low income individuals and the need to develop renewable energy sources will not diminish because there is a sunset clause in the law. The state needs to make a commitment for the long term.

**Proponents' Testimony:**

***{Tape: 1; Side: B; Approx. Time Counter: 5.7 - 27}***

**Patrick Judge, Montana Environmental Information Center (MEIC)**, said that he was in support of HB 498. He said that the USB Program raises approximately \$13 million statewide each year. Every electric customer in the state pays into this fund. In 2001, approximately \$8.2 million was raised in Northwestern Energy's territory. That money provided energy assistance for about 10,000 low income homes through energy share. Nearly 5,500 homes, churches and businesses received free energy audits. Thirty-four new renewable energy systems were co-funded. There are 12 schools throughout the state with solar electric systems funded by the USB. Through this program there are many who will benefit. There is tremendous value in making a long-term commitment. There is a continuing need for this program.

**Debbie Smith, Natural Resources Defense Council/Renewable Northwest Project (NRDC/RNWP)**, said that this is one of three bills to extend the USB. She reiterated the importance of extending the sunset on the USB to provide for low income homes and encourage the development of renewable energy sources.

**Rachael Haberman, Energy Share of Montana**, said that she supports this bill. She distributed a fact sheet on Montana's poor and the need for low-income energy assistance.

**EXHIBIT (feh31a05)**

**Betty Whiting, Montana Association of Churches**, said their main concern is for the low income families who benefit from the USB

program, but they also support the renewable energy development programs. She said that much time and money would be saved if bill was passed and this would not have to be addressed in future legislative sessions.

**Jody Medlar, WEEL Board Member**, said that the program that she represents provides assistance to low-income families. She said that they support this bill.

**Matthew Leow, Montana Public Interest Research Group (MontPIRG)**, said that they also support HB 498. He said that USB programs have proven their effectiveness. He agreed with previous testimony.

**Don Judge, Teamsters Local 190, and Montana Chapter, Sierra Club**, said that he encourages the committee to give HB 498 a do pass recommendation.

**Jack Gunderson, Montana Senior Citizens Association**, said they support this bill 100% and urge a do pass recommendation.

**Matt Brainard, Public Service Commission (PSC), District 4**, said that they generally support all USB bills.

**Tom Schneider, testifying on his own behalf**, said that he is in support of this bill.

**Joe Roberts, Human Resource Development Council Directors**, said that they support this extension.

**Opponents' Testimony:**

*{Tape: 1; Side: B; Approx. Time Counter: 27 - Tape: 2; Side: A; 4.9}*

**Doug Hardy, Montana Electric Cooperatives**, provided a copy of his written testimony.

**EXHIBIT**(feh31a06)

**Mike Pichette, Northwestern Energy**, said that they support extending the USB date to 2005. They oppose this bill because it removes the sunset date completely and feel that regular review is necessary.

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

**{Tape: 2; Side: A; Approx. Time Counter: 4.9 - 24.5}**

**REP. CARNEY** asked if Ms. Smith saw a problem in extending the date through 2005.

**Ms. Smith** said that at a minimum it needs to be extended, however there is no risk in removing it permanently.

**REP. SHOCKLEY** asked what the maximum benefit any one person could receive.

**Rachael Haberman** said that any one individual could receive up to \$500 over their lifetime. This would be in addition to other low-income assistance, such as the federally funded Low-Income Energy Assistance Program (LIEAP).

**REP. BROWN** asked what percentage of the \$13 million collected is designated for low-income assistance. She also asked where the rest of the money is going.

**Patrick Judge** said that, by statute, a minimum of 17% is designated for USB. He said that each utility proposes their own allegation which is normally higher. He said that, in 2001, Northwestern Energy allocated 24% to low income; 20% to conservation; 10% to market transformation; 14% to renewable energy installations, research and development; 28% to large customer self-direct programs; 3% to irrigated agriculture programs.

**REP. RICE** asked about reimbursement of costs for renewable systems.

**Patrick Judge** said that he believed there was a co-pay of 50% that has been reduced to 30%. The purchaser is responsible for up to 70% of the cost.

**REP. MATTHEWS** questioned what the functions of the USB Board were.

**Debbie Smith** said that all of the relevant state agencies, representatives from large industrial groups, representatives from environmental groups, and representatives from low-income organizations are asked to participate on the Board. The Board determines the amount of money that is distributed to each group.

**REP. BROWN** asked Patrick Judge to clarify how much of the \$13 million collected was from NWE.

**Patrick Judge** said that of the \$13 million collected statewide, \$8 million was from NWE.

**Closing by Sponsor:**

***{Tape: 2; Side: A; Approx. Time Counter: 24.5 - 28}***

**REP. WANZENRIED**, said that there is a continuing need for helping low-income individuals and the renewable energy programs. This program is working. By removing the sunset, it eliminates the need to address this issue in future sessions. He encouraged the committee to pass this bill.

**EXECUTIVE ACTION ON HB 443**

***{Tape: 2; Side: B; Approx. Time Counter: 0.2 - 5}***

**Motion:** **REP. SHOCKLEY** moved that **HB 443 DO PASS.**

**Motion:** **REP. PARKER** moved that **HB 443 BE AMENDED.**

**EXHIBIT (feh31a07)**

**REP. PARKER** explained the amendments.

**Substitute Motion/Vote:** **REP. LASZLOFFY** made a substitute motion to pass items one through five in the amendment for **HB 443**. Substitute motion failed 5-9 with **REPRESENTATIVES CARNEY, DOWELL, JACOBSON, PARKER, and RYAN** voting aye by roll call vote. **REPRESENTATIVE OLSON** voted by proxy.

**Motion/Vote:** **REP. LASZLOFFY** moved that **ITEM 6 IN THE AMENDMENT FOR HB 443 DO PASS.** Motion carried unanimously.

**Motion/Vote:** **REP. PARKER** moved that **HB BE AMENDED.** Motion carried 13-1 with **REPRESENTATIVE BROWN** voting no.

**EXHIBIT (feh31a08)**

**Motion:** **REP. CARNEY** moved that a **CONCEPTUAL AMENDMENT BE MADE TO PAGE TWO, LINE SIX TO CHANGE "COMPLIANCE" TO "COMPATIBILITY."**

**REP. LASZLOFFY** and **REP. MENDENHALL** respectively resisted the conceptual amendment.

**Vote:** Motion to CONCEPTUALLY AMEND HB 443 failed 5-9 with REPRESENTATIVES CARNEY, DOWELL, JACOBSON, PARKER, AND RYAN voting aye by roll call vote. REPRESENTATIVE OLSON VOTED NO by proxy.

**Motion/Vote:** REP. PARKER moved that HB 443 DO PASS AS AMENDED. Motion carried 10-4 with REPRESENTATIVES CARNEY, DOWELL, JACOBSON, and PARKER voting no by roll call vote. REPRESENTATIVE OLSON voted yes by proxy.



**ADJOURNMENT**

Adjournment: 5:10 P.M.

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REP. ROD BITNEY, Chairman

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GLENNA MCCLURE, Secretary

RB/GM

**EXHIBIT (feh31aad)**